

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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RUSLAN MIRVIS,

PLAINTIFF,

-against-

Case No.:  
19-CV-02573  
(LDH)(VMS)

HERMAN QUAY, Warden; ELEAZAR GARCIA, Associate  
Warden; JONATHAN WHITE, Captain; "JOHN" POE,  
Lieutenant; "JOHN" METZGER, Lieutenant; "JOHN"  
CALIXTE, Correction Officers; "G." GONZALEZ,  
Correction Officer, "JANE DOE," Correction Officer  
and Counselor MAURY "DOE,"

DEFENDANTS.

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DATE: November 3, 2022

TIME: 10:11 a.m.

VIRTUAL DEPOSITION of the Plaintiff,  
RUSLAN MIRVIS, taken by the Defendant, pursuant to  
a Court Order and to the Federal Rules of Civil  
Procedure, held at the above date and time, before  
Kenneth Perschke, a Notary Public of the State of  
New York.

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2 A P P E A R A N C E S:

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4 HELD & HINES, LLP  
Attorneys for the Plaintiff  
5 RUSLAN MIRVIS  
2004 Ralph Avenue  
6 Brooklyn, New York 11234  
BY: URI NAZRYAN, ESQ.

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9 UNITED STATES DEPARTMENT OF JUSTICE  
UNITED STATES ATTORNEY'S OFFICE  
10 Attorneys for the Defendants  
HERMAN QUAY, Warden, Et Al  
11 86 Chambers Street, Third Floor  
New York, New York 10007  
12 BY: MATTHEW MODAFFERI, ESQ.  
Matthew.Modafferi@usdoj.gov

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14

15 ALSO PRESENT:

16 Kimberly Francis  
U.S. Attorney's Office

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2 F E D E R A L S T I P U L A T I O N S

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5 IT IS HEREBY STIPULATED AND AGREED by and  
6 between the counsel for the respective parties  
7 herein that the sealing, filing and certification  
8 of the within deposition be waived; that the  
9 original of the deposition may be signed and sworn  
10 to by the witness before anyone authorized to  
11 administer an oath, with the same effect as if  
12 signed before a Judge of the Court; that an  
13 unsigned copy of the deposition may be used with  
14 the same force and effect as if signed by the  
15 witness, 30 days after service of the original & 1  
16 copy of same upon counsel for the witness.

17

18 IT IS FURTHER STIPULATED AND AGREED that all  
19 objections except as to form, are reserved to the  
20 time of trial.

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1 R. MIRVIS

2 R U S L A N M I R V I S, called as a witness,  
3 having been first duly sworn by a Notary Public of  
4 the State of New York, was examined and testified  
5 as follows:

6 EXAMINATION BY

7 MR. MODAFFERI:

8 Q. Please state your name for the  
9 record.

10 A. Ruslan Mirvis.

11 Q. What is your address?

12 A. Essex County Correctional Facility.

13 Q. Good morning, Mr. Mirvis, my name is  
14 Matthew Modafferi, I represent a few Bureau of  
15 Prisons employees, namely Lieutenant Poe,  
16 Lieutenant Metzger and Officer Calixte in a  
17 lawsuit that you filed in the United States  
18 District Court for the Eastern District of New  
19 York. I'm going to ask you some background  
20 questions today, some questions about the  
21 allegations in the complaint and hopefully we can  
22 get out of here in a couple hours. Okay?

23 A. Yes.

24 Q. Do you understand that you just took  
25 an oath to tell the truth?

1 R. MIRVIS

2 A. Yes.

3 Q. Even though we're not in a courtroom  
4 right now, the oath you took is the same that you  
5 would take on the witness stand in a courtroom, do  
6 you understand that?

7 A. Yes.

8 Q. I'm going to ask you a series of  
9 questions and the court reporter will take down  
10 both my question and your answers so it's  
11 important that you give verbal responses, you  
12 can't nod or head or use hand gestures in response  
13 to a question. Do you understand that?

14 A. Yes.

15 Q. Please keep your voice up and speak  
16 clearly so the court reporter can transcribe the  
17 deposition accurately. Do you understand?

18 A. Yes.

19 Q. It's important that we don't speak  
20 at the same time so please let me finish asking a  
21 question before you answer, this way the court  
22 reporter can take down what I'm saying and what  
23 you're saying clearly and accurately. Do you  
24 understand?

25 A. Yes.

1 R. MIRVIS

2 Q. If you don't understand one of my  
3 questions or a part of my question, please tell me  
4 that you don't understand and I will do my best to  
5 rephrase it for you. Do you understand?

6 A. Yes.

7 Q. We are doing this remotely,  
8 hopefully that doesn't present any complications  
9 but if there is any part of a question that you  
10 don't hear for whatever reason, please let me know  
11 and I will repeat it for you. Do you understand?

12 A. Yes.

13 Q. Unless you tell me otherwise I will  
14 assume that you heard and understood the entire  
15 question. Do you understand that?

16 A. Yes.

17 Q. I only expect you to testify about  
18 things you remember. If you don't remember  
19 something, just tell me you don't remember. Is  
20 that understood?

21 A. Yes.

22 Q. After this deposition is completed a  
23 transcript will be generated by the court reporter  
24 and you will have the opportunity to review that  
25 transcript for any errors you may find. Do you

1 R. MIRVIS

2 understand that?

3 A. Yes.

4 Q. If you do make any substantive  
5 changes to the transcript, I will be able to  
6 comment on those changes at trial. Do you  
7 understand that?

8 A. Yes.

9 Q. If at any point during this  
10 deposition you need a break let me know and we can  
11 work it out. We cannot take a break while a  
12 question is pending so that means you have to  
13 answer my question before we talk about taking a  
14 break. Do you understand?

15 A. Yes.

16 Q. Is there a counselor or officer or  
17 anyone in the room with you?

18 A. No.

19 Q. If we do take a break do you have to  
20 clear it with someone there?

21 A. No.

22 Q. Is there any reason why you cannot  
23 testify truthfully and accurately today?

24 A. Everything I'm going to say is the  
25 truth, if there's certain questions you ask, I'll

1 R. MIRVIS

2 tell you I can't answer the question.

3 Q. Do you have any condition that might  
4 affect your ability to testify fully, truthfully and  
5 accurately today?

6 A. No.

7 Q. Have you taken any prescription or  
8 over the counter medication within the last 24  
9 hours?

10 A. No.

11 Q. Have you taken any illegal drugs in  
12 the last 24 hours?

13 A. No.

14 Q. Did you drink any alcohol in the  
15 last 24 hours?

16 A. No.

17 Q. Do you have any medical conditions?

18 A. Yes.

19 Q. What medical conditions do you  
20 currently have?

21 A. You're talking about physical or  
22 mental?

23 Q. We'll break that down to separate  
24 questions. What physical conditions do you  
25 currently have?

1 R. MIRVIS

2 A. I have a problem with my leg,  
3 arthritis, I'm overweight. That's it.

4 Q. Going to the other part of that  
5 question, do you have any medical conditions that  
6 are psychology or emotional?

7 A. Extreme depression, anxiety.

8 Q. Going back to your leg for a second,  
9 when were you first diagnosed with arthritis in  
10 your leg, if you can recall?

11 A. I can't recall exactly the date.

12 Q. Can you give me a year?

13 A. They took me out of MDC to get  
14 examined, that's when they told me I have a  
15 problem with my right leg.

16 Q. Do you know what year that was?

17 A. I can't recall.

18 Q. It was sometime while you were  
19 assigned to MDC Brooklyn?

20 A. Correct.

21 Q. When were you first diagnosed with  
22 depression?

23 A. After the attack.

24 Q. When you say the attack, what month  
25 and year are you referring to?

1 R. MIRVIS

2 A. 2017, June or July.

3 Q. June and July 2017 you were also  
4 assigned to MDC Brooklyn?

5 A. I came to MDC in April.

6 Q. You first got MDC Brooklyn in  
7 April 2017?

8 A. Correct.

9 Q. In June and July 2017 you were still  
10 housed at MDC Brooklyn, correct?

11 A. Yes.

12 Q. Was it a doctor at MDC Brooklyn who  
13 diagnosed you with depression?

14 A. A psychotherapist.

15 Q. Someone in psychology at MDC  
16 Brooklyn?

17 A. Correct.

18 Q. With respect to anxiety, when were  
19 you first diagnosed with anxiety?

20 A. After the attacks.

21 Q. Would that also be sometime in June  
22 or July or 2017?

23 A. After the attack, I can't recall the  
24 exact date.

25 Q. So sometime after June and July of

1 R. MIRVIS

2 2017?

3 A. Correct.

4 Q. Did somebody at MDC Brooklyn  
5 diagnose you with anxiety?

6 A. A psychotherapist and my own  
7 psychotherapist.

8 Q. What do you mean your own  
9 psychotherapist?

10 A. I had a psychotherapist.

11 Q. Outside of MDC Brooklyn? You had  
12 one that was hired to assist in your criminal  
13 case?

14 A. Correct.

15 Q. Prior to June and July of 2017 did  
16 you have any medical condition?

17 A. Overweight.

18 Q. The arthritic leg, the depression  
19 and anxiety came after that?

20 A. Correct.

21 Q. Prior to June of 2017 had you ever  
22 seen a professional for psychotherapy?

23 A. No.

24 Q. Have you ever been ordered to submit  
25 to a mental health examination?

1 R. MIRVIS

2 A. No.

3 Q. While you were at MDC Brooklyn were  
4 you ever hospitalized for a period of time?

5 A. Yes.

6 Q. How many different times did that  
7 happened?

8 A. Twice.

9 Q. What was the first one for?

10 A. For my gallbladder.

11 Q. Roughly when were you hospitalized  
12 for your gallbladder?

13 A. I can't give you the date, it was a  
14 long time ago. I'm sure it's in the medical  
15 records.

16 Q. The second time you had a stay at  
17 the hospital while you were in MDC Brooklyn, what  
18 was that for?

19 A. The same issue, I wasn't getting the  
20 right medication.

21 Q. That time, was that after the  
22 gallbladder stay?

23 A. Yes.

24 Q. About how long after?

25 A. I can't give you the date.

1 R. MIRVIS

2 Q. Have you ever been hospitalized  
3 while at Essex?

4 A. No.

5 Q. Prior to your stay at MDC Brooklyn  
6 had you ever been inpatient at a hospital?

7 A. No.

8 Q. Switching gears, what we're doing  
9 now is called a deposition, have you ever had a  
10 deposition before?

11 A. No.

12 Q. Apart from this lawsuit have you  
13 ever filed any other lawsuits before?

14 A. Yes, through a company, it has  
15 nothing to do -- it was 2016, I was running a  
16 company, I had an issue with a client.

17 Q. Did you say 2016?

18 A. Roughly about that.

19 Q. When you say roughly 2016, is that  
20 roughly when you filed that other lawsuit?

21 A. I can't give you the date now.

22 Q. What is the significance of 2016?

23 A. A customer didn't pay their bill.

24 Q. What business were you running?

25 A. Event planning company.

1 R. MIRVIS

2 Q. You brought a lawsuit against a  
3 customer who never paid for your services, is that  
4 fair to say?

5 A. Yes.

6 Q. Aside from that lawsuit and this  
7 current one, have you ever filed any other  
8 lawsuits?

9 A. No.

10 Q. Do you know the result of the  
11 lawsuit for the event planning?

12 A. I dropped it.

13 Q. Have you ever been sued before?

14 A. No, not that I know.

15 Q. Have you ever testified in court  
16 before?

17 A. I can't can answer that question  
18 right now.

19 Q. Is your answer to that question  
20 sensitive and confidential?

21 A. Yes.

22 Q. I'll leave it at that. Did you  
23 review any documents to prepare for today?

24 A. No.

25 Q. I'm going to ask you some background

1 R. MIRVIS

2 questions. Have you ever been known by any other  
3 name aside from the one you gave to the reporter  
4 this morning?

5 A. In MDC, inmates call me Russia.

6 Q. While at MDC people called you  
7 Russia?

8 A. Yes, they couldn't pronounce my  
9 name.

10 Q. Do you have any other names that you  
11 go by?

12 A. No.

13 Q. Do you have any nicknames?

14 A. No.

15 Q. Have you ever used the name Brian  
16 Bray before?

17 A. I can't answer that question.

18 Q. Is that something you feel is  
19 confidential?

20 A. Yes, it is.

21 Q. Do you have any vision problems?

22 A. No.

23 Q. Any hearing problems?

24 A. No -- I'm sorry, vision, yes, I do  
25 wear glasses.

1 R. MIRVIS

2 Q. When were you first prescribed  
3 glasses?

4 A. 1996.

5 Q. Do you have any trouble seeing me or  
6 if I put a document on the screen would you have  
7 any trouble reading it?

8 A. I'll try, I'm not sure.

9 Q. Is it correct to say that you're  
10 currently incarcerated?

11 A. Yes.

12 Q. Where are you incarcerated?

13 A. Essex County Correctional Facility.

14 Q. How long have you been there?

15 A. Roughly 19 months.

16 Q. You mentioned that you first arrived  
17 to MDC Brooklyn in April of 2017, is that right?

18 A. Yes.

19 Q. Were you arrested in April of 2017?

20 MR. NAZRYAN: Objection. I'm going  
21 to instruct him not to answer and I'm going  
22 to instruct him not to answer any questions  
23 about the reason for his incarceration and  
24 the conduct underlying it on Fifth  
25 Amendment grounds. If you're trying to

1 R. MIRVIS

2 just lay a foundation that's fine but the  
3 timeline would be a matter of record on the  
4 other docket.

5 MR. MODAFFERI: I'm only going to  
6 about things that are public so if I'm  
7 asking something that's not public you let  
8 me know. I'll try this again.

9 Q. What I'm trying to get at is how it  
10 is you ended up at MDC, were you transferred there  
11 from another correctional facility, were you newly  
12 arrested?

13 A. I was newly arrested.

14 Q. From when to when did you stay at  
15 MDC Brooklyn?

16 A. I think two years, 2017 to -- I  
17 don't know.

18 Q. If I said April 21, 2017 to July 9,  
19 2019, does that sound about right?

20 A. I don't know.

21 Q. From April of 2017 until now is it  
22 fair to say during that period of time, roughly  
23 five and a half years, you were first at MDC  
24 Brooklyn and then you were transferred to Essex  
25 County Correction?

1 R. MIRVIS

2 A. That's correct.

3 Q. And during that five and a half year  
4 period of time you were incarcerated throughout?

5 A. Yes.

6 Q. Before April 2017 had you ever been  
7 incarcerated before?

8 A. No.

9 Q. Prior to April 2017 and prior to  
10 being at MDC Brooklyn, where were you living?

11 A. 1640 Ocean Avenue.

12 Q. Is that in Brooklyn?

13 A. Yes.

14 Q. Were you living with anyone at that  
15 address?

16 A. With my parents.

17 Q. Are you married?

18 A. No.

19 Q. Do you have any children?

20 A. No, not that I know of.

21 Q. Prior to your incarceration what  
22 were you doing for work?

23 A. I had an event planning company.

24 Q. What was the name of the company?

25 A. Mirvis Events.

1 R. MIRVIS

2 Q. Did you have any employees or were  
3 you the sole employee?

4 A. I had contractors depending on the  
5 event.

6 Q. Was that your only source of income?

7 A. Yes, at that time.

8 Q. Are you currently earning a wage  
9 while incarcerated?

10 A. No, I'm not working here.

11 Q. When you were at MDC were you  
12 working?

13 A. Yes.

14 Q. What job or jobs did you have at  
15 MDC?

16 A. I was suicide watch companion,  
17 recreation aid and trustee, cleaning the kitchens.

18 Q. What is your highest level of  
19 education?

20 A. High school and I received a  
21 paralegal degree and a degree in criminal justice.

22 Q. Did you complete high school?

23 A. GED.

24 Q. And you also received a paralegal  
25 degree?

1 R. MIRVIS

2 A. Yes.

3 Q. Where?

4 A. Blackstone.

5 Q. What year did you receive your GED?

6 A. I was 19, I don't remember.

7 Q. What year did you receive your  
8 paralegal degree?

9 A. December 28, 2021.

10 Q. Did you receive that degree while  
11 you were at Essex?

12 A. Yes.

13 Q. I heard you flip through some pages,  
14 can you tell me what you have in front of you?

15 A. I have a book where I keep my  
16 educational background, all the courses I  
17 completed.

18 Q. Do you have any other papers or  
19 books in front of you?

20 A. No.

21 Q. I'm going to ask you some questions  
22 about your criminal case, I'll try to do in in  
23 such a way that we don't discuss anything public.

24 A. I'm not going to answer any  
25 questions about my case.

1 R. MIRVIS

2 Q. Have you ever been convicted of a  
3 crime?

4 A. No.

5 Q. With respect to your criminal case  
6 did you plead guilty?

7 MR. NAZRYAN: I'm going to object  
8 and instruct him not to answer anything  
9 about the pending case on Fifth Amendment  
10 grounds. He's been advised not to speak  
11 about the ongoing criminal matter in any  
12 way.

13 MR. MODAFFERI: If it's public I  
14 don't see how there's any basis to instruct  
15 him not to answer. On the docket it says  
16 he pled guilty. If he says he didn't  
17 there's a question of credibility and I  
18 have to explore it.

19 MR. NAZRYAN: I hear what you're  
20 saying, this is the instruction he's been  
21 given to not answer any questions about  
22 that. I don't think it's fair to ask him  
23 these questions right now when he's already  
24 asserted his Fifth Amendment right with  
25 respect to the criminal proceeding.

1 R. MIRVIS

2 MR. MODAFFERI: Convictions are  
3 highly relevant to credibility. Everything  
4 I'm going to ask is part of the public  
5 record on his criminal docket. We could  
6 avoid this if you and I can stipulate that  
7 he pled guilty to coercion or enticement of  
8 a minor to engage in illegal sexual  
9 activity. That's on the docket.

10 MR. NAZRYAN: What I can stipulate  
11 to is that the criminal docket appears to  
12 be an accurate representation of the  
13 proceedings in that case and my  
14 understanding is that Mr. Mirvis has  
15 entered a plea and is awaiting sentencing.

16 MR. MODAFFERI: To be clear, you're  
17 saying everything on the public docket is  
18 accurate?

19 MR. NAZRYAN: Of course there could  
20 be, but I'm not aware of any issues on the  
21 docket that would lead anyone to believe  
22 it's not accurate.

23 MR. MODAFFERI: That's fair.

24 Q. Aside from your federal case here in  
25 the Eastern District of New York, have you ever

1 R. MIRVIS

2 had any other criminal convictions?

3 A. No.

4 Q. Have you ever spent time in the New  
5 York State correctional system?

6 A. Yes, the case was dismissed.

7 Q. When did you spend time in the New  
8 York State correctional system?

9 A. I was a kid, I think it was for  
10 skipping school. It's a sealed case.

11 Q. Is that something that happened more  
12 than ten years ago?

13 A. Yes.

14 Q. Aside from that one case more than  
15 ten years ago, have you ever spent any other time  
16 in the New York State correctional system?

17 A. No.

18 Q. Aside from that case when you were a  
19 young kid and your current criminal case in the  
20 Eastern District, were there any other criminal  
21 cases that were opened against you?

22 A. Not that I know of.

23 Q. I want to talk about your time at  
24 MDC Brooklyn. To your knowledge were you ever  
25 placed on red ID status?

1 R. MIRVIS

2 A. No.

3 Q. To your knowledge were you ever  
4 placed on an SRG list?

5 A. What is that.

6 Q. Security risk group?

7 A. No.

8 Q. Do you know your security level in  
9 the BOP?

10 A. Yes, when I was moved here I was put  
11 in involuntary protective custody.

12 Q. But you don't know what your  
13 classification score is, what the number is?

14 A. No.

15 Q. When you first arrived the MDC  
16 Brooklyn in April of 2017 where were you assigned  
17 within the building, where is the first place you  
18 went?

19 A. Either J72 or J71, it was on the  
20 seventh floor but I don't remember.

21 Q. When you first arrived did you spend  
22 time in intake?

23 A. No, they took me straight in.

24 Q. As far as you can recall your first  
25 unit assignment was J71 or J72?

1 R. MIRVIS

2 A. Correct.

3 Q. While you were in that unit were you  
4 assigned to a single cell or a two man cell?

5 A. Two man cell.

6 Q. Can you describe generally the  
7 layout of the unit?

8 A. I'm sorry, when I went to MDC they  
9 took me to the fourth floor, I stayed there for a  
10 week until I got medical clearance, then they took  
11 me to the seventh floor.

12 Q. When you arrived to your unit on the  
13 seventh floor, can you describe what the unit  
14 looked like?

15 A. Two floor unit, about 120 or 130  
16 inmates.

17 Q. When you say two floors, there were  
18 cells on the top and cells on the bottom?

19 A. Yes.

20 Q. Was your cell on the top or on the  
21 bottom?

22 A. Bottom.

23 Q. Can you describe the cell?

24 A. A table, chair, beds.

25 Q. That unit on the seventh floor, was

1 R. MIRVIS

2 that considered general population?

3 A. Yes.

4 Q. Now I want to direct your attention  
5 specifically to June and July of 2017. Can you  
6 briefly tell me what you claim happened with  
7 respect to one or two of the other inmates in the  
8 unit at that time?

9 A. In the beginning I was being  
10 extorted by two inmates, gang members of the  
11 Bloods. One guy's nickname was Rampage, they not  
12 only extorted me, they extorted my mother, they  
13 made phone calls using my phone and spoke to my  
14 mom and threatened my mom if she didn't send \$250  
15 for those two inmates each they would kill me.

16 Q. Do you know the names of the two  
17 inmates?

18 A. It was a long time ago, it's on  
19 paper. I think William was one.

20 Q. And you said one of them was  
21 nicknamed Rampage?

22 A. Yes, the main one.

23 Q. You mentioned they were in the  
24 Bloods gang, how do you know that?

25 A. They were sitting at the table with

1 R. MIRVIS

2 Bloods and they said they were Bloods members.

3 Q. You mentioned you were extorting  
4 your mother by using your phone and saying they  
5 would kill you if she didn't send money to them?

6 A. Yes.

7 Q. What do you mean by your phone, your  
8 PIN?

9 A. They made me use my PIN to call my  
10 mother.

11 Q. You're referring to the PIN, you  
12 didn't have your own phone?

13 A. Correct.

14 Q. You mentioned they were also  
15 extorting you, was there anything else?

16 A. Money was sent from my commissary  
17 account to his wife.

18 Q. How did that come about, how did you  
19 do that?

20 A. You could send a check out from the  
21 computer.

22 Q. They gave you the bank account  
23 information?

24 A. Her house address and her name.

25 Q. How much money did you send to this

1 R. MIRVIS

2 person?

3 A. I think it was \$100 in the  
4 beginning.

5 Q. How long did this go on for?

6 A. A month.

7 Q. If you could, from when to when did  
8 it occur?

9 A. From June to July.

10 Q. How did it end, you said it lasted a  
11 month so at some point it came to an end?

12 A. Yes.

13 Q. How did that happen, did you make a  
14 complaint, did you ask to be moved, did you ask  
15 for protective custody?

16 A. In the beginning they came in my  
17 cell and there's a camera so MDC would have seen  
18 them coming in. Last time they came to my cell  
19 they had shanks and they said if I didn't give  
20 them \$1,000 each they would kill me.

21 Q. You said you had a camera in my  
22 cell?

23 A. Right across the hall, there's a  
24 camera facing my cell.

25 Q. One of the cameras inside the unit,

1 R. MIRVIS

2 you believe that pointed in the direction of your  
3 cell?

4 A. Yes, you could definitely see that.

5 Q. These two inmates, can you describe  
6 them, what they looked like?

7 A. Black, black hair, Rampage was tall,  
8 the other one was chubby. He had a tattoo on his  
9 neck that said Rampage.

10 Q. At some point did you complain about  
11 what was happening?

12 A. Yes.

13 Q. Did you ask for protective custody?

14 A. Yes.

15 Q. Why is it that you didn't  
16 immediately complain, why did it take a month?

17 A. I couldn't -- I did to officer G.  
18 Gonzalez, I told him a couple times what was  
19 happening, I wrote e-mails.

20 MR. MODAFFERI: I'm going to try to  
21 show you some records. This will be marked  
22 Exhibit 1, it's a three page document  
23 titled inmate investigative report.

24 (Whereupon, the aforementioned  
25 Inmate Investigative Report was marked as

1 R. MIRVIS

2 Exhibit 1 for identification as of this  
3 date by the Reporter.)

4 Q. What I want to direct your attention  
5 to is the summary paragraph of the top of the  
6 second page, do you see that?

7 A. Yes.

8 Q. It says, "On July 12, 2017, at  
9 approximately 2:00 p.m. inmate Mirvis, Ruslan,"  
10 the it has your reg number, "Requested protective  
11 custody." Do you have any reason to doubt that  
12 date and time?

13 A. Yes.

14 Q. Why?

15 A. Before they came in my cell and  
16 asked me for money, that was about 8:00 at night  
17 and there's a panic button, it wasn't 2:00 p.m.

18 Q. You hit panic button sometime at  
19 night, what happened?

20 A. Officer G. Gonzalez came there and  
21 didn't do anything. I even asked to see the  
22 lieutenant, that wasn't 2:00 p.m.

23 Q. When it has listed here July 12,  
24 2017 at 2:00 p.m., was there another time on  
25 July 12, 2017 that you requested protective

1 R. MIRVIS

2 custody?

3 A. That's when I was jumped.

4 Q. During June and July of 2017 these  
5 guys were extorting you. When did you push the  
6 panic button for the first time, what date?

7 A. I can't give you the date, I don't  
8 know.

9 Q. When was the first time you  
10 specifically asked to be placed in protective  
11 custody?

12 A. I told G. Gonzalez a couple times I  
13 was in danger.

14 Q. At some point in time you were  
15 assaulted, correct?

16 A. Yes.

17 Q. When did that happen?

18 A. For the whole month, four or five  
19 different times. The last time was the worst.

20 Q. When was the last time?

21 A. I would say the 12th of July, that's  
22 when they moved me.

23 Q. The last time you were assaulted and  
24 you said they moved you, who moved you?

25 A. An officer took me to the SIS

1 R. MIRVIS

2 office.

3 Q. July 12, 2017 at approximately  
4 2:00 p.m. is roughly the date and time you were  
5 taken out of the unit and taken to an office?

6 A. Correct.

7 Q. You mentioned an officer G.  
8 Gonzalez, is that right?

9 A. Yes.

10 Q. Do you know what the first name is?

11 A. No.

12 Q. Do you know what this person looks  
13 like?

14 A. Light skin, glasses, bald. That's  
15 all I know.

16 Q. Was this one of the unit officers in  
17 J71 or J72 at the time?

18 A. Yes. When I found out he was a  
19 brand new officer, he was a probation period but I  
20 told him multiple times what was happening.

21 Q. What did he do as far as you know?

22 A. Nothing.

23 Q. Did he say anything?

24 A. He said he would contact the  
25 lieutenant's office, that was the last time.

1 R. MIRVIS

2 Q. On this particular date it says,  
3 "Mirvis stated he was jumped and assaulted on unit  
4 JB and was told he needed today pay him or get off  
5 the unit?"

6 A. That's not correct.

7 MR. NAZRYAN: Wait for the question.

8 Q. What about that sentence is not  
9 correct?

10 A. I was bleeding, I told them about  
11 the money but it wasn't to get out of the unit.  
12 They did want me to pay \$1,000 each.

13 Q. You're saying the other inmate never  
14 told you that you needed to pay or get off the  
15 unit, it was just a threat that you had to pay?

16 A. Correct.

17 Q. Going to the bottom of page two  
18 where it says victim statements it says, "On  
19 July 24, 2017, inmate Mirvis was interviewed  
20 regarding his request for protective custody.  
21 Inmate Mirvis alleged inmate," blank, "Threatened  
22 him with a knife if he didn't pay him \$4,000.  
23 Mirvis states he has been threaten and assaulted  
24 by," blank, "For weeks, however he was afraid to  
25 report it because," blank, "Said he was going to

1 R. MIRVIS

2 cut him and kill his family." Is that accurate?

3 A. That's when they made a phone call  
4 to my mother and there's receipts going to his  
5 account.

6 Q. As far as you can recall, is that an  
7 accurate summary of what you told Kimberly  
8 Thompson on July 24, 2017?

9 A. Yes.

10 Q. Going back to the top of the  
11 document, I want to talk about July 12, 2017 at  
12 2:00 p.m. Earlier you mentioned that you were  
13 taken to an SIS office, is that right?

14 A. Correct.

15 Q. Do you know where that office was  
16 located within MDC?

17 A. If I remember I think it was the  
18 third floor.

19 Q. How do you know it was the SIS  
20 office as opposed to some other office?

21 A. I was told it was an SIS office, I  
22 asked where I was going.

23 Q. What did the room look like?

24 A. Metzger was sitting on the left  
25 side, there was a couple officers in the room.

1 R. MIRVIS

2 Q. Was it like a conference room  
3 setting?

4 A. No.

5 Q. Can you describe it?

6 A. Officer Metzger sitting in the back,  
7 there was an officer in front, there was TVs  
8 everywhere.

9 Q. Who was present in the room when you  
10 were taken there?

11 A. Officers, I don't know their names,  
12 Lieutenant Poe and Metzger.

13 Q. Can you describe what Lieutenant Poe  
14 looks like?

15 A. Chunky, I would say lazy eye, white.

16 Q. Can you describe Lieutenant Metzger?

17 A. Tall, black.

18 Q. Lieutenant Metzger is female?

19 A. Yes.

20 Q. And Poe is a male?

21 A. Yes.

22 Q. When you were first taken into this  
23 office what is the first thing that happened?

24 A. They told me to take my shirt off  
25 and they took pictures of my body.

1 R. MIRVIS

2 Q. Do you know what that was for?

3 A. The bruises.

4 Q. What happened after that?

5 A. Then they asked me what happened.

6 Q. When you say they, was it both of  
7 them asking you questions?

8 A. Lieutenant Poe, his major concern  
9 was about my case for some reason, not what  
10 happened to me.

11 Q. Where did you have bruises?

12 A. My chest, my hand, my ribs were all  
13 red.

14 Q. Did you understand that Lieutenant  
15 Poe or SIS were going to open an investigation  
16 into what happened?

17 A. No, his concern was about my case  
18 more, I don't know why.

19 Q. Did you subsequently learn that they  
20 opened an investigation into what happened?

21 A. After that happened I was sent to --  
22 I started to push them because I didn't feel  
23 nothing was happening for different reasons.

24 Q. On July 12, 2017, did you have any  
25 understanding that SIS was going to open an

1 R. MIRVIS

2 investigation into what happened with you and the  
3 other inmates on the unit?

4 A. No idea.

5 Q. When did you first learn that they  
6 did open an investigation into what happened with  
7 you and the other inmates on the unit?

8 A. I was told by an officer that they  
9 were looking into it.

10 Q. On this date, July 12, 2017, was  
11 this the first time you ever interacted with  
12 Lieutenant Poe?

13 A. Yes.

14 Q. The same question for Lieutenant  
15 Metzger, on July 12, 2017, was this the first time  
16 you interacted with her?

17 A. Yes.

18 Q. While you were in that office on  
19 that day was that the first time that you  
20 complained about what happened on the unit to  
21 Lieutenant Poe?

22 A. I tried.

23 Q. When you say you tried, were you  
24 successful in telling him what happened on the  
25 unit?

1 R. MIRVIS

2 A. No, I was getting mad.

3 Q. Had you tried to tell Lieutenant Poe  
4 what happened on the unit before July 12, 2017?

5 A. E-mails were sent out.

6 Q. You sent an e-mail to Lieutenant  
7 Poe?

8 A. I sent an e-mail to SIS.

9 Q. The first time you said something  
10 about what happened to Lieutenant Poe, would that  
11 be an July 12, 2017?

12 A. In person, yes.

13 Q. July 12, 2017, is that the first  
14 time you ever told Lieutenant Metzger about what  
15 happened between you and the two other inmates on  
16 the unit?

17 A. I tried.

18 Q. When you say you tried, is it the  
19 same answer that you got frustrated because they  
20 were asking you other questions?

21 A. Correct.

22 Q. About how long were you in that room  
23 speaking to Lieutenant Poe and Lieutenant Metzger?

24 A. About 20 minutes.

25 Q. While you were in that room did you

1 R. MIRVIS

2 complain of injury to Lieutenant Poe?

3 A. Yes.

4 Q. What injuries did you complain of?

5 A. My mouth, my ribs and my chest.

6 Q. You said you were photographed. Who  
7 took the photograph?

8 A. An officer.

9 Q. Did you complain of injuries to  
10 Lieutenant Metzger?

11 A. Yes -- she was in the room.

12 Q. What injuries did you complain of to  
13 her?

14 A. The same injuries.

15 Q. At that time that you were in the  
16 room you mentioned that you had some bruising and  
17 redness to your chest, hand and rib area, did you  
18 have any other visible injuries?

19 A. Visible, no.

20 Q. After being in that room for roughly  
21 20 minutes, where did you go next?

22 A. After they took pictures they tested  
23 my blood pressure and that's it.

24 Q. Where did that happen?

25 A. In medical.

1 R. MIRVIS

2 Q. After you were in that office at  
3 around 2:00 p.m. on July 12, 2017, you were taken  
4 to medical?

5 A. Correct.

6 Q. Do you know where medical or health  
7 services is located within MDC?

8 A. I don't remember, it's a couple  
9 places.

10 Q. Do you know which floor or which  
11 place you went to on July 12, 2017?

12 A. I don't remember exactly.

13 Q. Do you know if Lieutenant Poe was  
14 the individual that sent you to medical?

15 A. I have no idea.

16 Q. Do you know if Lieutenant Metzger  
17 was the person that sent you to medical after you  
18 were in that office?

19 A. No idea.

20 MR. MODAFFERI: I'm going to show  
21 you another document. This is a health  
22 services clinical encounter, it's three  
23 pages marked Mirvis BOP28 through 30.

24 (Whereupon, the aforementioned  
25 Bureau of Prisons Health Services Clinical

1 R. MIRVIS

2 Encounter was marked as Exhibit # for  
3 identification as of this date by the  
4 Reporter.)

5 Q. Can you see that document?

6 A. Yes.

7 Q. Do you have copy of your medical  
8 records?

9 A. Not with me.

10 Q. Do you have it in your cell?

11 A. No.

12 Q. Where do you have?

13 A. My lawyers have it.

14 Q. Looking at the top it says inmate  
15 name and date of birth, that's your information,  
16 correct?

17 A. Correct.

18 Q. Underneath that it says encounter  
19 date July 12, 2017, at 1432, that's 2:32 p.m.  
20 Looking at this record it says provider Jamie  
21 Altman RN. Do you recall seeing a nurse called  
22 Jamie Altman?

23 A. I don't know if that was her name.

24 Q. Going down where it says pain scale  
25 seven, where did the injury happen, J72, cause of

1 R. MIRVIS

2 injury I was jumped, symptoms my ribs hurt. Did I  
3 read that accurately?

4 A. Yes.

5 Q. Do your see where it says assessment  
6 at the bottom?

7 A. Yes.

8 Q. It says, "34 year old male brought  
9 to WSHU for a protective custody assessment.  
10 Reports he has been 'jumped' daily by other  
11 inmates on his unit. States he has been choked  
12 and kicked in the ribs daily for approximately one  
13 month. States he was attacked daily because,  
14 'they wanted to call my people to give their  
15 people money.'" Did I read that accurately?

16 A. Yes.

17 Q. Looking at the next paragraph it  
18 says, "Reports pain during inspiration and  
19 expiration to left rib. No respiratory distress.  
20 Left rib area is tender to palpation. Two older  
21 bruises observed to left upper arm only. Skin  
22 intact. No other marks/abrasions or injuries  
23 observed. States neck hurts because, 'they  
24 grabbed me by the throat.'" Did I read that  
25 correctly?

1 R. MIRVIS

2 A. Yes.

3 Q. According to this medical record it  
4 seems like you were complaining of pain to your  
5 neck and your ribs, is that fair?

6 A. Yes.

7 Q. The last paragraph says, "Informed  
8 x-rays will be ordered and Motrin for pain.  
9 Informed to contact medical with any questions or  
10 concerns. He verbalized understanding and was  
11 agreeable with plan of care." After you met with  
12 Nurse Altman did you in fact receive Motrin or  
13 ibuprofen?

14 A. I received them and I said in one of  
15 the e-mails that I needed stronger painkillers.  
16 They gave me Tylenol. The x-ray was taken almost  
17 a month and a half later, after the incident.

18 Q. I'll get to that in a second. My  
19 question was did you in fact receive the pain  
20 medication after this meeting with the nurse?

21 A. Yes.

22 Q. It says x-rays will be ordered, were  
23 x-rays in fact ordered as far as you know?

24 A. I complained for them to give me  
25 x-rays, it was taking almost a month, month and a

1 R. MIRVIS

2 half after the incident.

3 Q. But x-rays were taken sometime in  
4 August?

5 A. Correct, I think that's the date, I  
6 don't remember.

7 Q. That last sentence says he  
8 verbalized understanding and was agreeable with  
9 plan of care. Is that accurate?

10 A. They told me x-rays would be  
11 ordered, yes.

12 Q. Were you agreeable with that plan?

13 A. Yes, but I didn't know how long it  
14 was going to take.

15 Q. In your complaint there's a  
16 reference that Lieutenants Metzger and Poe delayed  
17 you getting medical treatment on July 12, 2017.  
18 How did they delay treatment?

19 A. I was in a lot of pain, I was  
20 complaining and I had a ruptured tooth as well, I  
21 was in extreme pain. No one came to see me, no  
22 one came to talk to me, I was alone. They said  
23 why didn't you write a cop out, I said it's  
24 impossible, you have to have a pen or paper and I  
25 did when I received a paper and pen but there

1 R. MIRVIS

2 wasn't any system where you could write to  
3 anybody.

4 Q. You were taken to this office and  
5 you met with Lieutenants Poe and Metzger for  
6 roughly 20 minutes and then you were taken to  
7 medical. According to your, what should  
8 Lieutenant Poe have done differently that day?

9 A. I don't know. I'm not a doctor, I  
10 was in a lot of pain.

11 Q. According to you what should  
12 Lieutenant Metzger have done differently that day?

13 A. The same answer, not going after my  
14 charges, getting me help.

15 Q. You mentioned a ruptured tooth?

16 A. Yes.

17 Q. What is that?

18 A. A root canal ruptured -- it's in the  
19 medical records, it had to be extracted.

20 Q. How do you believe that the tooth  
21 ruptured?

22 A. Because I went to medical a week  
23 before that and said I have to have surgery to get  
24 it removed, it was infected.

25 Q. At some point the dentist wanted to

1 R. MIRVIS

2 extract the tooth, correct?

3 A. Yes.

4 Q. And you refused that treatment,  
5 correct?

6 A. No. I was in pain, why would I  
7 refuse that treatment?

8 MR. MODAFFERI: I'm going to show  
9 you two documents, the first one we'll mark  
10 as Exhibit 3.

11 (Whereupon, the aforementioned  
12 Bureau of Prisons Health Services Dental  
13 Soap/Admin Encounter was marked as Exhibit  
14 4 for identification as of this date by the  
15 Reporter.)

16 Q. Can you see the document that we  
17 have up?

18 A. Yes.

19 Q. It's a two page document Bates  
20 numbered Mirvis BOP85 and 86. This is a Health  
21 Services Dental Soap/Admin Encounter. In the  
22 upper left hand corner where it says inmate name  
23 and date of birth, that's your information?

24 A. Yes.

25 Q. Then it says encounter date

1 R. MIRVIS

2 August 11, 2017 and where it says chief complaint  
3 it says hole in tooth and under that it says,  
4 "Patient presents for a routine dental call out  
5 for surgical exodontia of tooth 14. Paint stated  
6 he does not want the tooth extracted. Refusal  
7 form signed." Did I read that correctly?

8 A. Yes. It's not accurate.

9 Q. How is it not accurate?

10 A. I came to get medical attention for  
11 my tooth, why would I refuse it?

12 MR. MODAFFERI: I'm going to show  
13 you Exhibit 4. This is marked Mervis  
14 BOP125

15 (Whereupon, the aforementioned  
16 Medical Treatment Refusal was marked as  
17 Exhibit 4 for identification as of this  
18 date by the Reporter.)

19 Q. Can you see that document?

20 A. Yes.

21 Q. At the top it says Medical Treatment  
22 Refusal, date August 11, 2017, and it says, "I,  
23 Ruslan Mirvis refuse treatment recommended by the  
24 Federal Bureau of Prisons medical staff for the  
25 follow conditions: Surgical extraction of upper

1 R. MIRVIS

2 left first molar." Did I read that correctly?

3 A. Yes.

4 Q. Then it says in the middle, "The BOP  
5 medical staff members have explained to me the  
6 following possible consequences and/or  
7 complications may result because of my refusal to  
8 accept treatment," and it has a list including  
9 pain, infection, did I read that correctly?

10 A. Yes.

11 Q. Down here where it says patient  
12 signature, is that your signature?

13 A. Yes, it is.

14 Q. Do you know if that's your  
15 handwriting next to it where you wrote your name  
16 and the date?

17 A. Yes, it is.

18 MR. MODAFFERI: We're going to take  
19 a few minute break.

20 (Whereupon, a short recess was  
21 taken.)

22 Q. We're back from our short break, I  
23 have some more questions for you.

24 A. About the August document that I  
25 signed, I do keep records of my schedule, I need

1 R. MIRVIS

2 to go over exactly what happened that date.

3 Q. That's fair. After you went to that  
4 office on July 12, 2017, and then were taken to  
5 medical, subsequent to that I believe you said you  
6 were placed in the SHU, is that right?

7 A. Yes.

8 Q. Approximately how long were you in  
9 the SHU for?

10 A. A month or two.

11 Q. While you were in the SHU staff from  
12 psych and staff from medical do rounds in the  
13 unit, is that correct?

14 A. Not exactly. They do pass your cell  
15 and you have to write letters and have the papers  
16 sticking out of the door.

17 Q. During your time in the SHU you did  
18 in fact have meetings with psych, correct?

19 A. I did have an outside person come  
20 see me.

21 Q. Do you recall if you also had  
22 someone from MDC that you spoke to?

23 A. I did talk to a psychologist later  
24 on.

25 Q. When you say later on, what do you

1 R. MIRVIS

2 mean?

3 A. We had a whole meeting about the  
4 incident.

5 Q. When you say you had a whole meeting  
6 about the incident, what are you referring to?

7 A. What happened at MDC Brooklyn, the  
8 whole attack.

9 Q. Where was the meeting?

10 A. It was in a conference room.

11 Q. Do you know when that took place?

12 A. I don't remember the date exactly.

13 Q. Do you know who attended the  
14 meeting?

15 A. The psychologist, SIA, there were  
16 other officers and people wearing regular clothes.

17 Q. Did that take place in 2018?

18 A. I don't know.

19 Q. Do you have any understanding as to  
20 what the purpose of the meeting was?

21 A. The whole incident of the attack and  
22 the PREA.

23 Q. I want to direct your attention to  
24 February 2019, what unit were you in at that time?

25 Q. Can we talk about that meeting?

1 R. MIRVIS

2 Q. Let me finish the question where I  
3 was going and then we can go back. Directing your  
4 attention to the beginning of February 2019, do  
5 you recall what unit you were in at that time?

6 A. I was in the SHU a couple times, I  
7 don't know.

8 Q. You wanted to talk more about that  
9 meeting. Is it fair to say that there was an  
10 allegation made by you that fell under PREA, is  
11 that right?

12 A. It wasn't an allegation, I never  
13 even wanted to bring PREA up. I spoke with  
14 Counselor Maury who had a private conversation and  
15 I told him I want it between me and you, no one  
16 else wanted to listen, especially Poe and Metzger.  
17 I have enough evidence of what happened to me,  
18 nothing was done to these individuals what they  
19 have done to me, nothing was done. The concern  
20 was with those two, they were more worried about  
21 my case than anything else and after me and him  
22 had a talk I told him what happened and he  
23 promised he would never tell anybody but he did so  
24 after he did we had a meeting.

25 Q. When you say he, referring to

1 R. MIRVIS

2 Counselor Maury?

3 A. Yes. He told them I and I got mad  
4 at him, you promised not to say anything and he  
5 didn't answer. In that meeting the psychologist  
6 was taking notes and as soon as I went there SIA  
7 asked why didn't I say anything, I said I did,  
8 they were too worried about my case. Lieutenant  
9 Poe got up, apologized to me about the whole  
10 meeting and then he left.

11 Q. I'm a little confused. The first  
12 time you met with Lieutenant Poe and Lieutenant  
13 Metzger it seemed to be about investigating the  
14 extortion and the assault that took place in J72,  
15 is that fair?

16 A. Yes.

17 Q. Later on you spoke to Counselor  
18 Maury and mentioned a sexual assault and Counselor  
19 Maury reported it and it became a PREA, is that  
20 right?

21 A. Yes.

22 Q. I'm confused as to why if there was  
23 no PREA in 2017 but there was a PREA in 2018, why  
24 would anyone apologize?

25 A. He knew what he did was wrong, I

1 R. MIRVIS

2 couldn't say nothing to Poe or Metzger, they were  
3 too worried about my case, they wouldn't even call  
4 me by my name, I won't even say what they called  
5 me. They only person I spoke to and I still trust  
6 is Maury, he's the only one who tried to help me.

7 Q. It's your belief that Lieutenant Poe  
8 and Lieutenant Metzger didn't adequately  
9 investigate the complaints that you were making,  
10 is that fair to say?

11 A. Yes.

12 Q. After this meeting that took place  
13 in 2018, did an investigation take place with  
14 respect to the PREA allegation?

15 A. I have no idea.

16 Q. I want to go back to February of  
17 2019. You said you don't recall what unit you  
18 were in at that time. In your lawsuit you made an  
19 allegation of vomiting, do you recall a time in  
20 early 2019 where you were having stomach issues?

21 A. Yes. I told the officer I have a  
22 problem, I can't eat and I'm puking blood. She  
23 said I'll call medical and medical didn't show up  
24 for four or five hours. After I called her,  
25 Lieutenant Metzger came and she said the only

1 R. MIRVIS

2 medical attention I'll give you is for your  
3 fucking head and she said that in front of the  
4 officer and the other inmates.

5 Q. You made the complaint initially to  
6 an officer, do you know which officer that was?

7 A. I don't remember.

8 Q. Was it a male or a female?

9 A. I think it was a female, I don't  
10 remember.

11 Q. You said that officer called medical  
12 but they didn't show for roughly four or five  
13 hours?

14 A. Yes.

15 Q. When medical showed up --

16 A. They didn't show up, I asked for a  
17 lieutenant because they weren't showing up and  
18 Metzger came.

19 Q. Did Metzger get medical or bring you  
20 to medical?

21 A. After I started yelling at her  
22 because of what she said, she said it in front of  
23 the whole unit and in front of the inmates.

24 Q. You told the officer, the officer  
25 called medical and they didn't show so you asked

1 R. MIRVIS

2 for a lieutenant, Metzger showed up, she made some  
3 comments you didn't appreciate so you started  
4 yelling and then she called medical?

5 A. Correct.

6 Q. Do you recall if the name of the  
7 officer was Calixte?

8 A. I don't remember that name but I  
9 don't know if that was them.

10 Q. That officer that you made the  
11 initial complaint to, did he or she say anything  
12 to you after you made the complaint?

13 A. In the unit when I was having  
14 problems with my stomach?

15 Q. Yes.

16 A. They said they were going to call  
17 medical but they didn't come for a while. I was  
18 puking blood in the cell and then Metzger came.

19 Q. That's what you had your  
20 interactions with her and she eventually called  
21 medical?

22 A. Yes.

23 Q. Did medical come to you or were you  
24 escorted to medical?

25 A. They came to me.

1 R. MIRVIS

2 Q. What did you say to medical and what  
3 did they say to you?

4 A. I have a lot of pain and I think  
5 they took tests and they said I have to be rushed  
6 to the hospital.

7 Q. Did that happen all in the same day,  
8 you made the complaint to the officer, then  
9 Metzger showed up, then medical showed up and then  
10 you went to the hospital?

11 A. The complaint happened the day  
12 before that because I couldn't eat and the next  
13 day is when I was sent to the hospital.

14 Q. You mentioned when Metzger made  
15 those comments you yelled at her, what  
16 specifically did you say?

17 A. I said you said that in front of the  
18 inmates and the officers, if you don't contact  
19 medical I'm going to contact my lawyer. How can  
20 you see that?

21 Q. Did you see her contact medical?

22 A. She walked away so I don't know.

23 Q. How long after you had that exchange  
24 with her did medical show up?

25 A. Half an hour to an hour.

1 R. MIRVIS

2 Q. At that time when you were vomiting  
3 up blood, did you have any visible signs of  
4 injury, were you bleeding anywhere?

5 A. I couldn't stand up, I was curled  
6 up, I couldn't walk.

7 Q. Did you make the complaints to the  
8 officers at their station at the bubble or were  
9 you by yourself?

10 A. At the bubble.

11 Q. You were able to walk ever there?

12 A. Yes, but there I curling up and I  
13 had another inmate walk with me.

14 Q. You said you were eventually  
15 transported to the hospital, correct?

16 A. Yes.

17 Q. Do you know which hospital it was?

18 A. I don't know.

19 Q. Was it Kingsbrook Jewish Medical  
20 Center?

21 A. Yes.

22 Q. How long were you in the hospital  
23 for?

24 A. I think 10 to 11 days.

25 Q. Did the doctors or the staff at the

1 R. MIRVIS

2 hospital tell you what was wrong?

3 A. I think, I'm not a doctor, I had a  
4 major infection in my gallbladder, it had to be  
5 removed.

6 Q. The issue with your gallbladder, did  
7 that happen before the time when you were throwing  
8 up in your cell?

9 A. No, I was throwing up first.

10 Q. As you sit here today you believe  
11 the issue you were having when you were vomiting  
12 in the unit, you were taken to the hospital and  
13 then you had the gallbladder surgery?

14 A. Yes. I was in the cell, I felt  
15 extremely sick, I was puking.

16 MR. MODAFFERI: I'm going to show  
17 you this to refresh your recollection.

18 (Whereupon, the aforementioned  
19 Kingsbrook Jewish Medical Center Discharge  
20 Summary dated 12/28/2018 was marked as  
21 Exhibit 5 for identification as of this  
22 date by the Reporter.)

23 Q. Can you see the record I put before  
24 you?

25 A. Yes.

1 R. MIRVIS

2 Q. This is a discharge summary from  
3 Kingsbrook Jewish Medical Center, admit date  
4 12/28/2018. I want to direct your attention to  
5 reason for admission, "RUQ pain, 2/2 gallstone."  
6 Do you see that?

7 A. I want to the hospital twice, this  
8 is the first time or the second time?

9 Q. That's what I'm trying to do is  
10 refresh your recollection. This is the first time  
11 as far as I'm aware that you went to Kingsbrook, I  
12 think it was the end of 2018 and they took a CT  
13 scan that showed acute pancreatitis and you were  
14 sent for surgery and you had a laparoscopic  
15 cholecystectomy. Do you recall having that  
16 surgery the end of 2018 or beginning of 2019?

17 A. I had surgery done, yes.

18 MR. MODAFFERI: I'm going to show  
19 you another record, this will be marked as  
20 Exhibit 6, it's another discharge summary  
21 from Kingsbrook Jewish Medical Center dated  
22 February 7, 2019, a little over a month  
23 after your surgery.

24 (Whereupon, the aforementioned  
25 Kingsbrook Jewish Medical Center Discharge

1 R. MIRVIS

2 Summary dated 2/7/2019 was marked as  
3 Exhibit 6 for identification as of this  
4 date by the Reporter.)

5 Q. It says, "Reason for admission:  
6 Vomiting and diarrhea of one week duration."

7 A. After the surgery I couldn't hold  
8 nothing, they told me it was going to happen.

9 Q. What did they tell you was going to  
10 happen?

11 A. When you lose the gallbladder, all  
12 the fat, I couldn't eat the same amount of food so  
13 I had to be on a liquid diet for a while.

14 Q. At the end of the 2018 you had  
15 gallbladder surgery and then in the beginning of  
16 February 2019 you were vomiting in your cell, you  
17 made the complaint to the officer and Lieutenant  
18 Metzger and you were taken to Kingsbrook Jewish  
19 Medical Center a second time for the vomiting, is  
20 that correct?

21 A. Yes.

22 Q. It says, "36 year old male with PMH  
23 of anxiety disorder was admitted after he  
24 presented with vomiting and nausea associated with  
25 diarrhea. As per patient, this started after he

1 R. MIRVIS

2 was started on new meds for his psychiatric  
3 illness." Do you recall telling anybody in the  
4 hospital that your stomach was bothering you  
5 because of new psychiatric medication?

6 A. No.

7 Q. Do you recall what the medical staff  
8 at this particular time at the hospital diagnosed  
9 you with or said what the issue was?

10 A. They said it's a probably because I  
11 have to get used to do food, losing the  
12 gallbladder, because of the fat my system has to  
13 get used to it. That's what I was told.

14 Q. Where it says final diagnosis and  
15 comorbidities, anxiety disorder and acute  
16 gastroenteritis?

17 A. They put me in a scanning machine  
18 and I couldn't be in the machine, I was having an  
19 anxiety attack in the machine.

20 Q. Did the hospital prescribe you any  
21 medications after his visit?

22 A. They did, I was supposed to be on a  
23 liquid diet for a while.

24 Q. Did you suffer any physical injury  
25 as a result of the delay in getting medical

1 R. MIRVIS

2 treatment in the beginning of February 2019 when  
3 you were vomiting?

4 A. You're talking about the first  
5 incident or?

6 Q. Particularly in the beginning of  
7 February 2019 when you asked the officer to get  
8 health services and then you asked Lieutenant  
9 Metzger and there was some delay there, did you  
10 suffer any physical injury from that delay?

11 A. Yes, I was in extreme pain.

12 Q. Anything else?

13 A. Physically -- mentally and  
14 physically I was in extreme pain.

15 Q. The same question with respect to  
16 the alleged delay in treatment in July of 2017  
17 when you were meeting with Lieutenant Metzger and  
18 Lieutenant Poe, did you suffer any physical  
19 injuries from that 20 minute delay in getting  
20 treatment from medical?

21 A. Talking about the second time I was  
22 in the hospital?

23 Q. No, going back to that meeting in  
24 the office on July 12, 2017?

25 A. Metzger wasn't there.

1 R. MIRVIS

2 Q. I believe you said Poe was at the  
3 front desk?

4 A. That's going back to the beginning  
5 of the whole assault.

6 Q. That is what I'm asking about.  
7 Going back to that event, did you suffer any  
8 physical injury from that delay in you seeing  
9 medical?

10 A. I was in extreme pain.

11 Q. Anything else, did you suffer any  
12 other consequences or injuries?

13 A. Mental pain as well, I went through  
14 hell, I didn't know why I was being punished and  
15 put in the SHU.

16 Q. Going back to February of 2019 when  
17 you had the stomach issues, did the stomach issues  
18 resolve?

19 A. Can I say something.

20 Q. Sure.

21 A. When they take a person to the SHU,  
22 there's no computer, there's no way to make a  
23 complaint. I couldn't write letters, I couldn't  
24 talk to my family for a whole month.

25 Q. You said the only way to get medical

1 R. MIRVIS

2 attention is to put a piece of paper through the  
3 coal door?

4 A. If you're lucky enough to get a  
5 pencil.

6 Q. I want to repeat the question that I  
7 asked. In February of 2019 you were vomiting and  
8 had stomach issues, did that eventually resolve?

9 A. There's still food I can't eat, I'm  
10 still having problems digesting everything.

11 Q. As far as you know the issue with  
12 digesting fatty foods, that's because you had your  
13 gallbladder removed?

14 A. I think so, I'm not a doctor.

15 Q. You mentioned after that July 12,  
16 2017 encounter with Lieutenant Poe and Lieutenant  
17 Metzger you were placed in the SHU. To be clear,  
18 you were placed in the SHU for protective custody,  
19 not for disciplinary measures as far as you know?

20 A. The way they acted, they were too  
21 worried about my case -- I don't know, I can't  
22 give you that answer.

23 Q. Before we talked about that you had  
24 bruising to your ribs and a CT scan was performed  
25 and there were in fact fractures, correct?

1 R. MIRVIS

2 A. Yes.

3 Q. Did your ribs eventually heal?

4 A. Eventually, yes. Can I say  
5 something?

6 Q. Go ahead.

7 A. My incident, I'm not going to give  
8 you the name, it has nothing to do with me but  
9 there was another inmate who had the same problem,  
10 that inmate was transsexual, he was being raped by  
11 the same inmates.

12 Q. That was also on J72 around the same  
13 time in June and July of 2017?

14 A. I have no idea.

15 Q. How do you know that?

16 A. That individual went to the same  
17 unit I was in.

18 Q. Did that transgender inmate tell you  
19 that it happened?

20 A. I asked what are you doing in my  
21 unit and they told me what happened.

22 Q. You didn't witness those two gang  
23 members sexual assault somebody, you learned that  
24 information from speaking to that transgender  
25 inmate, correct?

1 R. MIRVIS

2 A. Yes.

3 MR. MODAFFERI: I'm going to take a  
4 two minute break to look at my notes.

5 (Whereupon, a short recess was  
6 taken.)

7 MR. MODAFFERI: I don't have any  
8 further questions.

9 MR. NAZRYAN: I have a few follow up  
10 questions.

11 EXAMINATION BY

12 MR. NAZRYAN:

13 Q. This is your attorney, Uri Nazryan,  
14 I'm going to ask you a few follow up questions.  
15 You are still under oath and all the rules that  
16 counsel mentioned before are still in effect.

17 Do you recall a discussion with  
18 counsel earlier about a record from July 12, 2017,  
19 at approximately 2:00 p.m.?

20 A. Yes.

21 Q. Was it your understanding that that  
22 record involved a meeting with you at the SIS  
23 location about the recent attack?

24 A. I would have to see the record  
25 again.

1 R. MIRVIS

2 Q. That meeting at the SIS location was  
3 concerning the attack that had recently happened  
4 to you, correct?

5 A. Yes.

6 Q. That attack that had recently  
7 happened, did that happen the same day or the  
8 night before?

9 A. The night before and they came  
10 inside the cell again, the same inmates but they  
11 didn't do as much damage as the night before.

12 Q. That attack that you mentioned the  
13 night before, was that when you hit the panic  
14 button?

15 A. Yes.

16 Q. Did you request any medical  
17 treatment the night before?

18 A. Yes.

19 Q. From whom did you request medical  
20 treatment?

21 A. Officer G. Gonzalez.

22 Q. How did you request medical  
23 treatment that night before?

24 A. I pressed the panic button and the  
25 officer came to my door.

1 R. MIRVIS

2 Q. What did you tell that officer?

3 A. I told them I was attacked and I was  
4 in a lot of pain and I need medical attention.

5 Q. Did you receive any medical  
6 treatment that night?

7 A. I did not.

8 Q. Did you receive any explanation why  
9 you did not receive medical treatment that night?

10 A. I did not.

11 Q. Were you in pain that night?

12 A. Extreme pain, yes.

13 Q. Were you able to request medical  
14 treatment from anybody else that night and into  
15 the morning?

16 A. No.

17 Q. It's your recollection that you  
18 stayed in your cell after the attack that night?

19 A. Yes.

20 Q. Approximately when is your  
21 understanding that you went to this SIS location?

22 A. The next morning, I don't know  
23 exactly the time.

24 Q. What did you do to enable you to go  
25 to that SIS location?

1 R. MIRVIS

2 A. What made me go there?

3 Q. How did you request to go to an SIA  
4 location the next morning?

5 A. Before they opened our cells I  
6 waited for an officer to come and I said I'm in  
7 danger, can you take me out before the other  
8 inmates.

9 Q. It's your understanding this was  
10 sometime before they opened the gates to let all  
11 the other inmates out?

12 A. Correct.

13 Q. Do you know what time that usually  
14 is?

15 A. 6:45, 7:00.

16 Q. Did that officer agree?

17 A. Yes, but they let the inmates out  
18 anyway.

19 Q. If this is approximately 6:45 to  
20 7:00 a.m. when they opened the gates, is that when  
21 you were taken to an SIS location?

22 A. Yes.

23 Q. Do you know how long you stayed at  
24 this SIS location?

25 A. 20 to 30 minutes.

1 R. MIRVIS

2 Q. It was after being there for 20 to  
3 30 minutes that you finally received medical  
4 treatment?

5 A. I didn't get medical treatment, they  
6 just gave me Tylenol.

7 Q. After you were in the SIS location,  
8 it was after that you went to an SHU, correct?

9 A. Yes.

10 Q. You said you can't formally request  
11 sick call at SHU?

12 A. You cannot.

13 Q. You said the only way you can do it  
14 is with a pencil and paper and putting it through  
15 the cell?

16 A. If you're lucky and have a pencil to  
17 do that and the offer picks it up, that's the only  
18 way of doing it.

19 Q. When you were in your original cell  
20 how would you request sick help?

21 A. Using the computer.

22 Q. Is it fair to say you did not submit  
23 any sick call request through TRULINCS while you  
24 were in SHU?

25 A. No, it's impossible.

1 R. MIRVIS

2 Q. While you were in the SHU unit were  
3 you in pain?

4 A. Extreme pain, yes.

5 Q. What was causing this pain to your  
6 understanding?

7 A. My mouth and my ribs.

8 Q. How often did you attempt to request  
9 sick call in the SHU, in whatever form that took?

10 A. Almost every day.

11 Q. How did you try to request medical  
12 treatment in the SHU?

13 A. I had to wait a week and a half to  
14 order a pen.

15 Q. Would you ever yell out to someone  
16 and say I need medical treatment?

17 A. Yes, that doesn't work. If you look  
18 on my record there was an inmate with me who tried  
19 to commit suicide, it took 45 minutes for them to  
20 come and help.

21 Q. Is it true that one of the ways in  
22 which you requested medical treatment while you  
23 were in the SHU was by asking an officer or guard  
24 for medical treatment?

25 A. Correct but that's impossible, you

1 R. MIRVIS

2 to kick the door, yell, curse, do anything to  
3 possible to get their attention. I couldn't kick,  
4 I couldn't get out the bed, I was in a lot of  
5 pain.

6 Q. What medical treatment did you  
7 receive while you were in the SHU?

8 A. I didn't get no treatment.

9 Q. When you say no treatment, do you  
10 mean you didn't receive any medication or any  
11 diagnosis or anything else?

12 A. Medication, I used to get on and  
13 off, one day yes, one day no and it was Tylenol  
14 that didn't do anything.

15 Q. Eventually you were transferred out  
16 of the SHU, correct?

17 A. Yes.

18 Q. Do you know why you were transferred  
19 out?

20 A. They took me to another jail  
21 population but because I'm Jewish they put me in a  
22 cell with one of the guys who was an Aryan gang  
23 member and they know, why would you put me over  
24 there?

25 Q. Why did they take you out of SHU and

1 R. MIRVIS

2 put you back in general population?

3 A. I have no idea.

4 Q. Were you still in pain at that point  
5 when you left the SHU?

6 A. Yes.

7 Q. It was around this time that you  
8 learned that you had rib fractures?

9 A. They did x-rays I think a month,  
10 month and a half, I don't know the date but when  
11 they did the x-rays I found out.

12 Q. After you learned that you had the  
13 rib fractures because of the x-rays, did you  
14 receive any treatment or medication for that  
15 diagnosis?

16 A. No, they said they couldn't do  
17 anything about it because it was too old, it was a  
18 month already. Can I say something?

19 Q. Wait for a question. I'm going to  
20 bring you now to February of 2019, I believe  
21 counsel asked you some questions and showed you  
22 medical records regarding the gallbladder surgery  
23 you had a month or so before, do you recall that?

24 A. Yes.

25 Q. When were you starting to feel pain

1 R. MIRVIS

2 from that surgery?

3 A. I started feeling it that night, I  
4 was having a little pain and then it grew.

5 Q. When with respect to the blackout  
6 did you start feeling pain or vomiting or diarrhea  
7 in connection with the surgery?

8 A. Every time I ate something because I  
9 was supposed to have a liquid diet and they were  
10 giving us cold sandwiches they gave every inmate.

11 Q. Was this before the blackout, during  
12 the black or after the blackout?

13 A. During the blackout.

14 Q. This was late January to early  
15 February?

16 A. Yes.

17 Q. That's when you started to  
18 experience more serious systems of vomiting?

19 A. Yes, the food they were giving me,  
20 they didn't give me the liquid diet I was supposed  
21 to get.

22 Q. You were saying because of the  
23 blackout you weren't receiving the food you were  
24 supposed to be receiving?

25 A. Yes, a lot of inmates got sick.

1 R. MIRVIS

2 Q. During the blackout did you request  
3 medical treatment?

4 A. Yes.

5 Q. How did you request medical  
6 treatment during the blackout?

7 A. The same thing, paper, we couldn't  
8 come out, it was dark, you couldn't see nothing,  
9 you had to write a piece of paper and put it  
10 through the door.

11 Q. You were not able to use the  
12 TRULINCS sick call request?

13 A. No.

14 Q. When were you first able to use the  
15 TRULINCS sick call request again?

16 A. After the blackout.

17 Q. Do you remember when that was?

18 A. I don't remember.

19 Q. Did you submit a sick call request  
20 through TRULINCS after the blackout?

21 A. I think I did, I don't remember.

22 Q. You're saying during the blackout  
23 before you did the TRULINCS request you were also  
24 trying to ask guards for treatment and things like  
25 that?

1 R. MIRVIS

2 A. Treatment, there was no blankets, it  
3 was freezing.

4 Q. Do you remember any of the guards or  
5 officers to whom you requested treatment during  
6 the blackout?

7 A. No, a lot of the officers keep  
8 changing, it wasn't the regular officers.

9 Q. When you did request sick call you  
10 said you did that through TRULINCS, what did you  
11 say was bothering you at the time?

12 A. I couldn't eat, I was vomiting, I  
13 was bleeding when I used the bathroom, I was in  
14 pain.

15 Q. Did you receive any medical  
16 treatment that day that you sent the TRULINCS sick  
17 call request?

18 A. I don't remember, I don't think so,  
19 I think I had to wait.

20 Q. Do you think it was the next day  
21 that you received medical treatment?

22 A. I can't give you the date, I don't  
23 know.

24 Q. Do you have an approximate of time  
25 in days or hours that you waited to receive

1 R. MIRVIS

2 medical treatment after you sent the TRULINCS sick  
3 call request after the blackout?

4 A. I would say it was days, a lot of  
5 people were complaining.

6 Q. When someone did address your  
7 request for medical treatment, did they bring you  
8 someplace at MDC or did they take you straight to  
9 the hospital?

10 A. They look at you, they saw blood in  
11 the toilet and they took me to the hospital again.

12 Q. They took you someplace in MDC?

13 A. I don't remember the second time,  
14 either they just looked at the toilet and took me  
15 out of the cell and straight to the hospital, I  
16 don't remember that. I know they looked at the  
17 toilet and they did see blood, I don't remember if  
18 they took me to the office first and then the  
19 hospital or if they took me straight to the  
20 hospital -- an officer picked me up, he took me to  
21 the basement, I think I fell down, he picked me up  
22 and I was taken to the hospital.

23 Q. If you received any medical  
24 treatment or if you were examined at MDC, is it  
25 your understanding there would be a medical record

1 R. MIRVIS

2 of when that took place?

3 A. They should have that.

4 Q. Do you know if there are any records  
5 of your sick call request that you submitted while  
6 you were in SHU in paper form?

7 A. I did give multiple to my social  
8 worker.

9 Q. What did you give your social worker  
10 while you were in SHU in July of 2017?

11 A. I think once a week they do rounds,  
12 they do water, medical, a group of people walking  
13 around so I saw my social worker so I said can I  
14 please have a form for sick call and they gave me  
15 the form and I gave it back to them.

16 Q. It's your understanding you filled  
17 out some of those forms and gave it to your social  
18 worker?

19 A. Once, in front of the social worker  
20 I did it.

21 Q. Other than that is it your  
22 understanding that there were any records that you  
23 gave to any of the officers or guards while you  
24 were at SHU requesting medical treatment?

25 A. No, it's impossible.

1 R. MIRVIS

2 Q. During the blackout before the  
3 TRULINCS sick call request went back up, are you  
4 aware of any records or papers that you sent to  
5 the guards requesting medical treatments?

6 A. On my TRULINCS account there should  
7 be.

8 Q. I'm saying before the TRULINCS went  
9 back up, during the blackout?

10 A. No, a lot of people were complaining  
11 about sick calls.

12 MR. NAZRYAN: I don't have any  
13 further questions. Thank you.

14 MR. MODAFFERI: I just have one more  
15 question.

16 EXAMINATION BY

17 MR. MODAFFERI:

18 Q. Do you know whether medical staff or  
19 medical services are present at MDC or working at  
20 night?

21 A. I have no idea. Can I say  
22 something? They took me to four different general  
23 populations, with my issues that I had MDC has a  
24 unit for protective custody, I was never sent  
25 there, I was requesting to go to a protective

1 R. MIRVIS

2 custody unit and they denied me going.

3 Q. Which unit is protective custody?

4 A. K81. Four times they put me in  
5 general population but these lieutenants only care  
6 about my case. I wanted to bring criminal charges  
7 against those two individuals but that never  
8 happened when there's evidence in the medical  
9 records, I don't understand why criminal charges  
10 were never filed.

11 MR. MODAFFERI: I have no further  
12 questions. Thank you for your time today.

13 (Whereupon, at 12:32 p.m. the  
14 Examination of this witness was concluded.)

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D E C L A R A T I O N

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I hereby certify that having been first  
duly sworn to testify to the truth, I gave the  
above testimony.

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\_\_\_\_\_  
RUSLAN MIRVIS

16

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\_\_\_\_\_  
NOTARY PUBLIC

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25

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_ 2022.

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E X H I B I T S

EXHIBIT	EXHIBIT	PAGE
NUMBER	DESCRIPTION	
1	Inmate Investigative Report	29
2	Bureau of Prisons Health Services Clinical Encounter	40
3	Bureau of Prisons Health Services Dental Soap/Admin Encounter	46
4	Medical Treatment Refusal	47
5	Kingsbrook Jewish Medical Center Discharge Summary dated 12/28/2018	58
6	Kingsbrook Jewish Medical Center Discharge Summary dated 2/7/2019	59

I N D E X

EXAMINATION BY	PAGE
MR. MODAFFERI	4, 79
MR. NAZRYAN	66

1

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C E R T I F I C A T E

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4

STATE OF NEW YORK       )  
                                      :   SS.:  
COUNTY OF QUEENS       )

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7

I, KENNETH PERSCHKE, a Notary Public for  
and within the State of New York, do hereby  
certify:

10

That the witness whose examination is  
hereinbefore set forth was duly sworn and that  
such examination is a true record of the testimony  
given by that witness.

14

I further certify that I am not related to  
any of the parties to this action by blood or by  
marriage and that I am in no way interested in the  
outcome of this matter.

18

IN WITNESS WHEREOF, I have hereunto set my  
hand this 13th day of November, 2022.

20

21

22

KENNETH PERSCHKE

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1	
2	DEPOSITION ERRATA SHEET
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25	Ruslan Mirvis